Further on, he emphasizes the significant fact that

> in many of the more important aspects, a modern American city is not so much a miniature state as it is a business corporation, — its business being wisely to administer the local affairs and economically to expend the revenues of the incorporated community [page 34].

And he endorses the view that "more power and more responsibility" should be vested in the mayor or executive head (page 31).

What is especially noteworthy in this connection is the author's familiarity with the lay literature of his subject. The best and most recent writers are usually cited. The marginal notes are rich in material which will be of value to the non-professional reader. The historical sketch is in the main good though too general, and it contains one or two sections which should have been subjected to thorough revision. Thus the account of the civic communities established by Rome (pages 4, 5) is inadequate. The authoritative literature is not mentioned, and some of the statements are misleading. Similar objections may be made to the passage (pages 15–16) on the English towns at the time of the conquest. The author would have done well here had he accepted the guidance of Bishop Stubbs, with whose writings he shows elsewhere that he is acquainted. But to lay too much stress on possible shortcomings such as these would be ungrateful as well as unfair, for the author has warned us that he is writing "strictly for the practising lawyer," and does not purpose giving "a detailed account of the origin and rise of cities and towns." Judge Dillon's treatise is a credit to American scholarship, and must remain indispensable to every student of municipal institutions.

GEORGE E. HOWARD.

De l'Exécution des Jugements Étrangers dans les Divers Pays. Par CHARLES CONSTANT. Paris, G. Pedone-Lauriel, 1890. — 207 pp.

This is a second and very much enlarged edition of a small work published in 1883, which was so well received that it was soon out of print. The present edition forms the twenty-ninth number of Pedone-Lauriel's *Bibliothèque Internationale et Diplomatique*, and constitutes an excellent manual on the execution of foreign judgments in various countries. A larger space is naturally given to the law on that subject in France than to the law of any other country, but a general and instructive statement is afforded of the rules that obtain in the United States, England, Germany, Austria-Hungary, Belgium, Brazil, Bulgaria, Chili, Denmark, Egypt, Spain, Greece, Hayti, Italy, Luxemburg, Mexico, Monaco, the Netherlands, Peru, Portugal, Roumania, Russia, Servia, Sweden and Norway, Switzerland and Turkey. From this list it is apparent that the work of M. Constant is much more comprehensive in respect to the

subject of which it treats than the chapters on the execution of foreign judgments found in the books on the conflict of laws.

It is scarcely necessary to say that when we speak of the execution of foreign judgments, we mean judgments in civil and not in criminal cases. It is a universal principle that the authorities of one country will not enforce the criminal sentences pronounced by the tribunals of other countries; but when we enter the domain of civil rights and remedies, we discover a totally different rule. Here national boundaries are in great measure obliterated. National policies and national jealousies disappear, and each nation lends its aid to administer justice as between man and man in respect to their private transactions. If, for example, a suit be brought upon a contract which was made and was to be executed with reference to a foreign law, the court will apply and enforce that law as the law to govern the case. It was somewhat broadly declared by Lord Stowell in the famous case of Dalrymple *vs.* Dalrymple, which involved the question of the validity of a Scotch marriage, that where a foreign contract was to be construed and enforced it was the duty of the court to ascertain what the foreign law applicable to it was, and that the law of England, having furnished this principle, altogether withdrew, while the foreign law then became the law of England for the purposes of the case.

This principle of the recognition by each country of the laws of other countries in civil matters really lies at the foundation of the enforcement by the authorities of one country of the civil judgments of the tribunals of another. Hence it has been declared in England that a foreign judgment in respect to a matter properly governed by the law of England would not be enforced in that country, if the foreign tribunal refused to apply the English law. On the other hand, the English law having been applied, it has been held that the English courts would enforce the judgment, although the foreign tribunal misconstrued the law. Such was the decision of Mr. Justice Sterling, in 1887, in the case *In re* Trufort. The same rule had already been laid down in two earlier English decisions, namely Castrique *vs.* Imrie, L. R. 4 H. L. 414, and Godard *vs.* Gray, L. R. 6 Q. B. 139.

It would far exceed the space allotted to a book review to attempt to disclose the rules observed and the methods pursued in various countries in the execution of foreign judgments. In some instances the subject is regulated by treaty. M. Constant informs us that France has such treaties with Austria, Germany, Italy, Russia and Switzerland. These conventions, however, are not so important for us as the broad doctrines which are generally recognized and administered. It is generally stated that, to render a foreign judgment effective, it must appear that the court had jurisdiction of the parties and the subject-matter. This is fundamental. A judgment rendered without jurisdiction is in strict right no

judgment at all, and it is obvious that the jurisdiction must extend both to the parties and the subject-matter. The judgment must also be final, and, if *in personam* and for a pecuniary claim, must be for a fixed sum. In many countries, as in Germany, Austria-Hungary, Chili and others, it may also be necessary to show that reciprocity is observed in the country from which the judgment comes. This is expressly provided in article 661 of the German code of civil procedure, which was promulgated in 1877; and where there is no express provision on the subject it would not be strange if the courts should refuse to recognize judgments proceeding from countries whose tribunals refuse to execute foreign judgments. Such a case would fall within the principle of the declaration or suggestion of Lord Hatherley, above mentioned, that the English courts would not enforce a judgment respecting a matter governed by English law, if the foreign tribunal refused to apply that law.

Growing out of the requirement that, where a foreign judgment is to be enforced, the court which renders judgment must have jurisdiction of the parties, the question frequently arises whether the defendant has properly been served with process. It is a general principle in such case that, except as to citizens or domiciled persons, the process of the courts can have no extra-territorial effect; and it has been held both in the United States and in England that the extra-territorial acceptance of service otherwise invalid is insufficient. It would be manifestly unjust and inadmissible that persons against whom demands are made should be required to answer wherever it may suit the convenience or caprice of the plaintiff to bring his action. Such a rule would be intolerable. So sound and necessary is the requirement of service within the jurisdiction, that it has been enforced as between the states of the United States almost as strictly as between nations wholly foreign to each other. The abuses to which a relaxation of the rule would give rise have been amply illustrated in the matter of divorce. The theory on which extra-territorial service in such cases has been sustained is that it would defeat the object of the statutes to permit a person to escape their operation by leaving the jurisdiction. On the other hand it may well be asked whether, by recognizing such service, as by a notice in some obscure newspaper or by a communication mailed to a supposed post-office address, the statutes have not often been converted into instruments of fraud, by being made to serve the purposes of dishonest action on one side or of collusion. It has been strongly advocated by high authority that foreign divorces, where the service of process is by publication, should always be treated as having no extra-territorial effect as to a defendant domiciled in another jurisdiction, unless there be satisfactory proof that the whereabouts of such defendant could not after diligent search be discovered.

JOHN BASSETT MOORE.